

Chapter 10.44

THEFT AND RELATED OFFENSES

Sections:

10.44.010 Definitions.

10.44.020 Acts constituting theft designated—Penalty.

10.44.030 Presumptions and *prima facie* evidence.

10.44.010 Definitions.

For the purposes of this chapter:

A. “Dealer” means a person in the business of buying or selling goods.

B. “Deception” means and occurs when a person intentionally does any of the following:

1. Creates or confirms by words or conduct an impression of law or fact that is false and that the actor does not believe to be true, and that is likely to affect the judgment of another in the transactions;

2. Fails to correct a false impression of law or fact that the actor previously created or confirmed by words or other conduct that is likely to affect the judgment of another and that the actor does not now believe to be true;

3. Prevents another from acquiring information likely to affect his judgment in the transaction;

4. Sells or otherwise transfers or encumbers property without disclosing a lien, security interest, adverse claim, or other legal impediment to the enjoyment of the property, or whether the lien, security interest, claim or impediment is or is not valid or is or is not a matter of official record; or

5. Promises performance that is likely to affect the judgment of another in the transaction, which performance the actor does not intend to perform or knows will not be performed; provided, however, that failure to perform the promise in issue without other evidence of intent or knowledge is not sufficient proof that the actor did not intend to perform or knew the promise would not be performed.

C. “Obtain” means, in relation to property, to bring about a transfer of possession or of some other legally recognized interest in property, whether to the obtainer or another; in relation to labor or services, to secure performance thereof; and in relation to a trade secret, to make any facsimile, replica, photograph or other reproduction.

D. “Obtain or exercise unauthorized control” means, but is not necessarily limited to, conduct heretofore defined or known as common-law larceny by trespass, larceny by conversion, larceny by bailee, and embezzlement.

E. “Property” means anything of value, including real estate, tangible and intangible personal property, captured or domestic animals and birds, written instruments or other writings representing or embodying rights concerning real or personal property, labor services, commodities of a public utility nature such as telecommunications, gas, electricity, steam or water, and trade secrets, meaning the whole or any portion of any scientific or technical information, design, process, procedure, formula or invention which the owner thereof intends to be available only to persons selected by him.

F. “Purpose to deprive” means to have a conscious objective:

1. To withhold property permanently or for so extended a period, or to use under such circumstances that a substantial portion of its economic value, or of the use and benefit thereof, would be lost;

2. To restore the property only upon payment of a reward or other compensation; or

3. To dispose of the property under circumstances that make it unlikely that the owner will recover it.

G. “Receives” means acquiring possession, control or title, or lending on the security of the property.

H. “Services” means and includes, but is not necessarily limited to, labor, professional services, public utility and transportation ser-

vices, restaurant, hotel, motel, tourist cabin, rooming house and like accommodations, the supplying of equipment, tools, vehicles or trailers for temporary use, telephone or telegraph services, gas, electricity, water or steam and the like, and admission to entertainment, exhibitions, sporting events, or other events for which a charge is made.

10.44.020 Acts constituting theft designated—Penalty.

A. A person commits theft when he knowingly does any of the following:

1. Obtains or exercises unauthorized control over the property of another, having a value of \$300 or less, with the purpose to deprive the owner thereof;

2. Obtains or exercises control over the property of another having a value of \$300 or less, by deception, and with the purpose to deprive the owner thereof;

3. Obtains or exercises control over the property of another, having a value of \$300 or less, by extortion, as defined by the laws of the state of Utah, and with the purpose to deprive the owner thereof;

4. Receives, retains or disposes of the property of another, having a value of \$300 or less, knowing that such property had been stolen, or believing that it probably had been stolen, or who conceals, sells, withholds, or aids in concealing, selling or withholding any such property from the owner, knowing the property to be stolen, with a purpose to deprive the owner thereof;

5. Obtains property of another, having a value of \$300 or less, which he knows or reasonably should have known to have been lost or mislaid, or to have been delivered under a mistake as to the identity of the recipient, or as to the nature or amount of the property, without taking reasonable measures to return it to the owner, and with the purpose to deprive the owner of the property when he obtains the property, or at any time prior to taking the measures designated above;

6. Obtains services, having a value of \$300 or less, which he knows are available only for compensation, by deception, threat, force, or any other means designed to avoid the due payment therefore; or

7. Diverts the services of another, over which he has control and to which he knows he is not entitled, having a value of \$300 or less, to his own benefit or to the benefit of another who he knows is not entitled thereto.

B. A person convicted of theft, as herein enumerated, shall be deemed guilty of a misdemeanor.

10.44.030 Presumptions and *prima facie* evidence.

The following presumptions shall be applicable to this chapter:

A. Possession of property recently stolen, when no satisfactory explanation of such possession is made, shall be deemed *prima facie* evidence that the person in possession stole the property.

B. The knowledge or belief required for subsection (A)(4) of section 10.44.020 of this chapter is presumed, in a case of an actor who:

1. Is found in possession or control of other property stolen on a separate occasion;

2. Has received other stolen property within the year preceding the receiving offense charged; or

3. Being a dealer in property of the sort received, retained or disposed, acquires it for a consideration which he knows is far below its reasonable value.

Chapter 10.56

**ALCOHOLIC BEVERAGES AND
TOBACCO**

Sections:

10.56.010 Alcoholic beverages—Sale to minors prohibited.